

THE HONORABLE ROBERT S. LASNIK

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

JAMIE SCATENA, a single woman,  
  
Plaintiff,  
  
v.  
  
UNITED AIR LINES, INC., et al.,  
  
Defendants.

Case No. 09-CV-01429-RSL

**AIRBUS AMERICAS, INC.'S ANSWER  
TO COMPLAINT OF MARC AND KIM  
SHANNON**

MARC SHANNON, et al.,  
  
Plaintiffs,  
  
v.  
  
UNITED AIR LINES, INC., et al.,  
  
Defendants.

Without waiver of any rights, privileges, or defenses, Defendant Airbus Americas, Inc. (hereinafter "Airbus Americas"), files this Answer to Plaintiffs' Original Complaint for Damages and states as follows:

**I. PLAINTIFFS**

1.1 Airbus Americas lacks sufficient knowledge or information to admit or deny the allegations in paragraph 1.1 of the Complaint and, on that basis, denies the allegations.

## II. DEFENDANTS

2.1 Paragraph 2.1 of the Complaint is directed at Defendants United Air Lines, Inc. (“United”) and UAL Corporation, and no response from Airbus Americas is required. Paragraph 2.1 also contains legal conclusions to which no response is required.

2.2 Paragraph 2.2 of the Complaint is directed at Defendants United and UAL Corporation, and no response from Airbus Americas is required. Paragraph 2.2 also contains legal conclusions to which no response is required.

2.3 Airbus Americas admits that it is a corporation organized under the laws of the state of Delaware with its headquarters in Herndon, VA. Except as expressly admitted, Airbus Americas denies the remaining allegations in paragraph 2.3.

2.4 Paragraph 2.4 of the Complaint is directed at Defendant Airbus S.A.S. and no response from Airbus Americas is required. To the extent a response from Airbus Americas is deemed required, Airbus Americas admits that Airbus S.A.S. is a *société par action simplifiée* organized under the laws of France with its principal place of business in Toulouse-Blagnac, Franc. Except as expressly admitted, Airbus Americas denies the remaining allegations in paragraph 2.4.

2.5 Paragraph 2.5 of the Complaint is directed at Defendant European Aeronautical Defence & Space Co. (“EADS”) and no response from Airbus Americas is required. To the extent a response from Airbus Americas is deemed required, Airbus Americas denies the allegations in paragraph 2.5.

2.6 Paragraph 2.6 is directed at other defendants and no response from Airbus Americas is required. Paragraph 2.6 also contains conclusions of law to which no response is required. To the extent a response from Airbus Americas is deemed required, Airbus Americas denies the allegations in paragraph 2.6.

### III. JURISDICTION AND VENUE

3.1 Paragraph 3.1 of the Complaint is directed at Defendant United and no response from Airbus Americas is required. Paragraph 3.1 also contains conclusions of law to which no response is required.

3.2 Paragraph 3.2 of the Complaint is directed at Defendant UAL Corporation and no response from Airbus Americas is required. Paragraph 3.2 also contains conclusions of law to which no response is required.

3.3 Airbus Americas denies the allegations in paragraph 3.3 of the Complaint.

3.4 Paragraph 3.4 of the Complaint is directed at Defendant Airbus S.A.S. and no response from Airbus Americas is required. Paragraph 3.4 also contains conclusions of law to which no response is required. To the extent a response from Airbus Americas is deemed required, Airbus Americas denies the allegations in paragraph 3.4.

3.5 Paragraph 3.5 of the Complaint is directed at Defendant EADS and no response from Airbus Americas is required. Paragraph 3.5 also contains conclusions of law to which no response is required. To the extent a response from Airbus Americas is deemed required, Airbus Americas denies the allegations in paragraph 3.5.

### IV. FACTS

4.1 Airbus Americas admits that, on October 9, 2007, an Airbus A320-232 aircraft bearing manufacturer serial number 571 and registration number N431UA (the "Aircraft") was operated by United Airlines as Flight 628 from Seattle-Tacoma International Airport to O'Hare International Airport in Chicago, Illinois. Airbus Americas is without sufficient information to admit or deny the remaining allegations in paragraph 4.1, and, on that basis, denies the allegations.

4.2 Airbus Americas admits the Aircraft exited the runway after landing at O'Hare International Airport. Airbus Americas is without sufficient information to admit or deny the remaining allegations in paragraph 4.2, and, on that basis, denies the allegations.

1           4.3     Airbus Americas is without sufficient information to admit or deny the  
2     allegations in paragraph 4.3 of the Complaint, and, on that basis, denies the allegations.

3                   **V.     NEGLIGENCE – UNITED DEFENDANTS**

4           5.1     Paragraph 5.1 of the Complaint is directed at Defendants United and UAL  
5     Corporation and no response from Airbus Americas is required. Paragraph 5.1 also contains  
6     conclusions of law to which no response is required.

7           5.2     Paragraph 5.2 of the Complaint is directed at Defendants United and UAL  
8     Corporation and no response from Airbus Americas is required. Paragraph 5.2 also contains  
9     conclusions of law to which no response is required.

10                   **VI.    NEGLIGENCE AND PRODUCT LIABILITY CLAIMS –**  
11                   **THE AIRBUS DEFENDANTS**

12           6.1     Airbus Americas admits the Aircraft was designed, assembled, and placed  
13     into the stream of commerce by Airbus S.A.S. in France. Airbus Americas denies the  
14     remaining allegations in paragraph 6.1 of the Complaint.

15           6.2     Airbus Americas denies the allegations in paragraph 6.2 of the Complaint.  
16     Paragraph 6.2 also contains conclusions of law to which no response is required.

17           6.3     Airbus Americas denies the allegations in paragraph 6.3 of the Complaint.  
18     Paragraph 6.3 also contains conclusions of law to which no response is required.

19           6.4     Airbus Americas denies the allegations set forth in paragraph 6.4 of the  
20     Complaint. Paragraph 6.4 also contains conclusions of law to which no response is required.

21                   **VII.   DAMAGES**

22           7.1     Airbus Americas denies the allegations in paragraph 7.1 of the Complaint.  
23     Airbus Americas further denies that Plaintiffs are entitled to any relief from Airbus  
24     Americas, including the relief sought in paragraph 7.1.

25                   **VIII. PRAYER**

26           Airbus Americas denies that Plaintiffs are entitled to any relief from Airbus  
27     Americas, including the relief prayed for in the Complaint.

**IX. AFFIRMATIVE DEFENSES**

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2           1.       The Complaint fails to state a claim against Airbus Americas upon which  
3 relief can be granted.

4           2.       Plaintiffs' alleged damages, if any, were proximately caused, solely or  
5 partially, by the negligence and/or fault of persons, firms, corporations, entities, or parties  
6 hereto, other than Airbus Americas, for whom Airbus Americas is not responsible, and over  
7 whom Airbus Americas had no control or right of control, including but not limited to the  
8 operation, modification, alteration, or change in the condition of the Aircraft. Such acts or  
9 omissions were intervening, interceding, or superseding causes of Plaintiffs' damages from  
10 which Airbus Americas had no duty and no opportunity to protect Plaintiffs. Accordingly,  
11 Airbus Americas is not liable to Plaintiffs; or, in the alternative, Airbus Americas' liability  
12 to Plaintiffs must be reduced by the percentage of fault attributable to other liable persons,  
13 firms, corporations, entities, or parties, in accordance with applicable law.

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15           3.       The Complaint and all causes of action therein should be dismissed because  
16 Plaintiffs have failed to join necessary and indispensable parties.

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18           4.       The design of the Aircraft was consistent with or exceeded the state of the  
19 art at the time of its design and manufacture.

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21           5.       At the time the Aircraft entered the control of the operator, there were no  
22 practical and technically feasible alternative designs that would have prevented the alleged  
23 injuries without substantially impairing the reasonably anticipated or intended function of  
24 the aircraft.

25           6.       The benefits of the design of the Aircraft outweigh its inherent risks, if any.  
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1           7.       Airbus Americas is not liable because the Aircraft was subject to  
2 unforeseeable and improper misuse or handling, including but not limited to improper  
3 maintenance.

4           8.       The conduct or fault of Airbus Americas, if any, was not a substantial factor  
5 in bringing about Plaintiffs' alleged damages, and therefore was not a producing, proximate,  
6 or contributing cause of any injuries or damages suffered by Plaintiffs.

7           9.       Airbus Americas did not omit any instructions, warnings, or other  
8 communications that would have reduced the foreseeable risks of harm, if any, posed by the  
9 Aircraft.

10          10.       The Aircraft was intended for, and sold to, a knowledgeable and  
11 sophisticated user over whom Airbus Americas had no control. The warnings and  
12 instructions which accompanied the sale of the aircraft were sufficient to exculpate Airbus  
13 Americas from any liability to the Plaintiffs.

14          11.       The manufacture and marketing of the Aircraft, including the provision of  
15 related warnings, service bulletins, notices, and other communications, are controlled by  
16 federal and international law, and Airbus Americas was at all times in compliance and  
17 obedience with the applicable laws and regulations. If Plaintiffs' causes of action against  
18 Airbus Americas are permitted and allowed, they would impede, impair, frustrate, and/or  
19 burden the effectiveness of law regulating transportation and would constitute an invalid  
20 burden on interstate commerce, violating the supremacy and commerce clauses of the  
21 United States Constitution, Article VI, Section 2 and Article 1, Section 8, respectively.  
22 Thus, Plaintiffs' claims are preempted or barred by applicable law.

1           12. Any training or training materials provided by Airbus Americas fully  
2 complied with all applicable government rules, laws and regulations at the time such  
3 materials may have been provided.

4           13. Any training or training materials provided by Airbus Americas fully  
5 complied with the state-of-the-art and/or applicable industrial standards at the time such  
6 materials may have been provided.

7           14. Airbus Americas reserves the right to make an election of credit or setoff for  
8 any settlements as allowed pursuant to the applicable law.

9           15. Any award or judgment rendered in favor of the Plaintiffs must be reduced  
10 by the amount of benefits Plaintiffs received, or are entitled to receive, from any source.

11           16. Airbus Americas reserves the right to assert against the Plaintiffs, or any  
12 other party hereto, any and all affirmative defenses that may develop during the course of  
13 investigation, discovery, and litigation of this action.

14           WHEREFORE, Airbus Americas, Inc. respectfully requests as follows:

- 15           (1) That Plaintiffs take nothing against Airbus Americas, Inc., but to the extent  
16 the fact-finder awards damages, Airbus Americas, Inc. prays that any such  
17 award be reduced by that proportion of responsibility adjudged against other  
18 persons;  
19           (2) That Airbus Americas, Inc. be awarded its costs of Court;  
20           (3) That Airbus Americas, Inc. be awarded its reasonable and necessary  
21 attorneys' fees incurred in the defense of this action; and  
22           (4) Airbus Americas, Inc. be awarded such other and further relief as to which it  
23 may show itself entitled.  
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1 Dated: March 22, 2010

2 Respectfully submitted,

3 HOGAN & HARTSON, LLP

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